

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

GEORGE T, HICKS,

Petitioner,

V.

PAT GLEBE,

Respondent.

Case No. C08-5672FDB/JRC

**SPECIAL ORDER DIRECTING
SERVICE AND RETURN,
§ 2254 PETITION**

The petitioner in this action is seeking federal habeas corpus relief pursuant to 28 U.S.C.

§ 2254. This case has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C.

§§ 636 (b) (1) (A) and 636 (b) (1) (B) and Local Magistrates' Rules MJR 3 and MJR 4.

Petitioner originally filed a petition on November 7, 2008 (Dkt. # 1). The Court granted

in forma pauperis status and ordered service on November 21, 2008 (Dkt # 4 and 6).

Respondent filed an answer to the petition January 14, 2009 (Dkt # 11).

1 Petitioner then filed a “motion to withdraw the petition” (Dkt # 13). This pleading was
2 not served on opposing counsel. The Court ordered a response and the respondent indicated he
3 did not oppose dismissal with prejudice (Dkt # 15).

4 Prior to the Court entering a Report and Recommendation that the petition be dismissed,
5 Petitioner submitted a completely new habeas petition with supporting records. Again, the
6 petitioner failed to serve opposing counsel. The Court has reviewed the documents submitted
7 and determined petitioner did not intend to dismiss his petition, instead, he meant to replace the
8 original petition with an amended petition. The Court will re-serve under this cause number and
9 give the Respondent a new time line for filing an answer. **The Court now Orders the new**
10 **petition and supporting document filed and served as set forth below:**

11 (1). The clerk shall arrange for service by certified mail upon respondent, a copy of
12 the petition, of all documents in support thereof, and of this Order. All costs of service shall be
13 advanced by the United States. The Clerk shall assemble the necessary documents to effect
14 service. The Clerk shall send petitioner a copy of this Order, the General Order. The clerk will
15 also send a courtesy copy of the petition to the Washington State Attorney General’s Office
16 Criminal Justice Division.

17 (2) Within forty-five (45) days after such service, respondent shall file and serve an
18 answer in accordance with Rule 5 of the Rules Governing § 2254 Cases in United States District
19 Courts. As part of such answer, respondents should state whether petitioner has exhausted
20 available state remedies, whether an evidentiary hearing is necessary, and whether there is any
21 issue of abuse of delay under Rule 9. Respondent shall not file a dispositive motion in place of
22 an answer without first showing cause as to why an answer is inadequate. Respondent shall file
23 the answer with the Clerk of Court and serve a copy of the answer upon petitioner.

24 (3) The answer will be treated in accordance with Local Rule CR 7. Accordingly,
25 upon receipt of the Answer the Clerk will note the matter for consideration on the fourth Friday
26 after the answer is filed, petitioner, through counsel, may file and serve a response not later than

1 on the Monday immediately preceding the Friday appointed for consideration of the matter, and
2 respondent may file and serve a reply brief not later than on the Thursday immediately preceding
3 the Friday designated for consideration of the matter.

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6 DATED this 3rd day of April, 2009.

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9 J. Richard Creatura
10 United States Magistrate Judge